

106TH CONGRESS
2D SESSION

H. R. 238

AN ACT

To improve the prevention and punishment of criminal smuggling, transporting, and harboring of aliens, and for other purposes.

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To improve the prevention and punishment of criminal smuggling, transporting, and harboring of aliens, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. INCREASED PERSONNEL FOR INVESTIGATING**
 2 **AND COMBATING ALIEN SMUGGLING.**

3 The Attorney General in each of the fiscal years
 4 2001, 2002, 2003, 2004, and 2005 shall increase the
 5 number of positions for full-time, active duty investigators
 6 or other enforcement personnel within the Immigration
 7 and Naturalization Service who are assigned to combating
 8 alien smuggling by not less than 50 positions above the
 9 number of such positions for which funds were allotted
 10 for the preceding fiscal year.

11 **SEC. 2. INCREASING CRIMINAL SENTENCES AND FINES FOR**
 12 **ALIEN SMUGGLING.**

13 (a) IN GENERAL.—Subject to subsection (b), pursu-
 14 ant to its authority under section 994(p) of title 28,
 15 United States Code, the United States Sentencing Com-
 16 mission shall promulgate sentencing guidelines or amend
 17 existing sentencing guidelines for smuggling, transporting,
 18 harboring, or inducing aliens under sections 274(a)(1)(A)
 19 of the Immigration and Nationality Act (8 U.S.C.
 20 1324(a)(1)(A)) so as to—

21 (1) double the minimum term of imprisonment
 22 under that section for offenses involving the smug-
 23 gling, transporting, harboring, or inducing of—

24 (A) 1 to 5 aliens from 10 months to 20
 25 months;

1 (B) 6 to 24 aliens from 18 months to 36
2 months;

3 (C) 25 to 100 aliens from 27 months to 54
4 months; and

5 (D) 101 aliens or more from 37 months to
6 74 months;

7 (2) increase the minimum level of fines for each
8 of the offenses described in subparagraphs (A)
9 through (D) of paragraph (1) to the greater of the
10 current minimum level or twice the amount the de-
11 fendant received or expected to receive as compensa-
12 tion for the illegal activity; and

13 (3) increase by at least two offense levels above
14 the applicable enhancement in effect on the date of
15 the enactment of this Act the sentencing enhance-
16 ments for intentionally or recklessly creating a sub-
17 stantial risk of serious bodily injury or causing bod-
18 ily injury, serious injury, permanent or life threat-
19 ening injury, or death.

20 (b) EXCEPTIONS.—Subsection (a) shall not apply to
21 an offense that—

22 (1) was committed other than for profit; or

23 (2) involved the smuggling, transporting, or
24 harboring only of the defendant's spouse or child (or
25 both the defendant's spouse and child).

1 **SEC. 3. ELIMINATION OF PENALTY ON PERSONS REN-**
2 **DERING EMERGENCY ASSISTANCE.**

3 (a) IN GENERAL.—Section 274(a)(1) of the Immi-
4 gration and Nationality Act (8 U.S.C. 1324(a)(1)) is
5 amended by adding at the end the following:

6 “(C) In no case may any penalty for a violation of
7 subparagraph (A) be imposed on any person based on ac-
8 tions taken by the person to render emergency assistance
9 to an alien found physically present in the United States
10 in life threatening circumstances.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect 90 days after the date of
13 the enactment of this Act, and shall apply to offenses com-
14 mitted after the termination of such 90-day period.

15 **SEC. 4. AMENDMENTS TO SENTENCING GUIDELINES RE-**
16 **GARDING THE EFFECT OF PROSECUTORIAL**
17 **POLICIES.**

18 In the exercise of its authority under section 994 of
19 title 28, United States Code, the United States Sentencing
20 Commission shall amend the Federal sentencing guidelines
21 to include the following:

22 **“§ 5H1.14. Plea bargaining and other prosecutorial**
23 **policies.**

24 “Plea bargaining and other prosecutorial policies,
25 and differences in those policies among different districts,

1 are not a ground for imposing a sentence outside the ap-
2 plicable guidelines range.”.

3 **SEC. 5. ENHANCED PENALTIES FOR PERSONS COMMITTING**
4 **OFFENSES WHILE ARMED.**

5 (a) IN GENERAL.—Section 924(c)(1) of title 18,
6 United States Code, is amended—

7 (1) in subparagraph (A)—

8 (A) by inserting after “device)” the fol-
9 lowing: “or any violation of section
10 274(a)(1)(A) of the Immigration and Nation-
11 ality Act”; and

12 (B) by striking “or drug trafficking
13 crime—” and inserting “, drug trafficking
14 crime, or violation of section 274(a)(1)(A) of
15 the Immigration and Nationality Act—”; and

16 (2) in subparagraph (D)(ii), by striking “or
17 drug trafficking crime” and inserting “, drug traf-
18 ficking crime, or violation of section 274(a)(1)(A) of
19 the Immigration and Nationality Act”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall take effect 90 days after the date of
22 the enactment of this Act, and shall apply to offenses com-
23 mitted after the termination of such 90-day period.

1 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—In addition to funds otherwise
3 available for such purpose, there are authorized to be ap-
4 propriated to the Immigration and Naturalization Service
5 of the Department of Justice such sums as may be nec-
6 essary to carry out section 1 and to cover the operating
7 expenses of the Service and the Department in conducting
8 undercover investigations of alien smuggling activities and
9 in prosecuting violations of section 274(a)(1)(A) of the
10 Immigration and Nationality Act (relating to alien smug-
11 gling), resulting from the increase in personnel under sec-
12 tion 1.

13 (b) AVAILABILITY OF FUNDS.—Amounts appro-
14 priated pursuant to subsection (a) are authorized to re-
15 main available until expended.

16 **SEC. 7. ALIEN SMUGGLING DEFINED.**

17 In sections 1 and 6, the term “alien smuggling”
18 means any act prohibited by paragraph (1) or (2) of sec-
19 tion 274(a) of the Immigration and Nationality Act (8
20 U.S.C. 1324(a)).

Passed the House of Representatives October 3,
2000.

Attest:

Clerk.